

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK
Chairman
3 JIM IRVIN
Commissioner
4 WILLIAM A. MUNDELL
Commissioner
5

Arizona Corporation Commission

DOCKETED

OCT 08 1999

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6 In the matter of)

7 PREMIUM FINANCIAL, L.L.C.)
4041 N. Central Ave., Suite 800)
8 Phoenix, Arizona 85012)

DOCKET NO. S-03343A-99-0000

9 ALAN STUART BERNSTEIN)
2050 E. Missouri)
10 Phoenix, Arizona 85016)

DECISION NO. 61999

11 JOHN WILSON NEAL)
8146 W. Wood Drive)
12 Peoria, Arizona 85381)

**FINAL ORDER OF RELIEF AND
CONSENT TO SAME FOR
RESPONDENT ROBERT WAYNE
MCINTOSH**

13 ROBERT WAYNE MCINTOSH)
12007 Colleyville Drive)
14 Austin, Texas 87733)

15 CAMERON MCINTOSH)
12007 Colleyville)
16 Austin, Texas 87733)

17 DUKE BUSHONG)
3673 Via Baldona)
18 Oceanside, California 92056)

19 Respondents.)
20)

21 **I.**

22 1. Robert Wayne McIntosh ("ROBERT MCINTOSH"), elects to permanently waive
23 his right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona (the
24 "Act") with respect to this Order for Relief and Consent to Same ("Order"); admits the jurisdiction
25 of the Arizona Corporation Commission ("Commission"); neither admits nor denies the Findings
26

1 of Fact and Conclusions of Law contained in this Order; and consents to entry of this Order by the
2 Commission.

3 2. ROBERT MCINTOSH, CRD No. 1908286, whose last address of record is 12007
4 Colleyville Drive, Austin, Texas 87733, was the former President and 20% owner of premium.
5 From on or about September 1998 until March 1999, while associated with Premium, ROBERT
6 MCINTOSH was also associated with Providential Securities, Inc. ("Providential"), CRD No.
7 31189. Providential is a dealer registered in Arizona. ROBERT MCINTOSH was registered as a
8 securities salesman in Arizona in association with Providential from on or about November 1998
9 until March 1999.

10 II.

11 Findings of Fact

12 3. In late March 1999, in connection with Premium's application for membership in
13 the NASD, the NASD conducted an on-site examination of Premium's office in Phoenix, Arizona.
14 The NASD's examination revealed that Premium, through persons not registered with an
15 effectively registered dealer, was conducting an active, substantial securities business within or
16 from Arizona with retail customers.

17 4. The Division obtained documents and other information that showed that for a one-
18 month period from February 9, 1999 through March 11, 1999, securities transactions in options
19 and equities were effected by individuals who were not registered through an effectively registered
20 dealer. These customer transactions by unregistered salesmen were processed through ROBERT
21 MCINTOSH's salesman account executive number at Providential giving the appearance that the
22 transactions were effected by ROBERT MCINTOSH who was the only salesman registered in
23 Arizona employed by an effectively registered dealer.

24 5. The NASD also found that Providential commission payments paid to ROBERT
25 MCINTOSH were deposited to Premium's bank account and that various expenses, such as rent
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1 and officer salaries, were paid from said funds, including salary payments to individuals affiliated
2 with Premium.

3 **III.**

4 **Conclusions of Law**

5 6. The Commission has jurisdiction over this matter pursuant to the Act, A.R.S. § 44-
6 1801 et seq., and Article XV of the Arizona Constitution.

7 7. In connection with the offer or sale of securities described above, ROBERT
8 MCINTOSH has participated in conduct by unregistered dealers or salesmen within Arizona
9 pursuant to A.R.S. § 44-2003, in violation of A.R.S. § 44-1842.

10 **IV**

11 **Order**

12 Therefore, on the basis of the Findings of Fact and Conclusions of Law, the Commission
13 issues the following Order.

14 1. IT IS ORDERED, pursuant to A.R.S. § 44-2032, that ROBERT MCINTOSH
15 CEASE AND DESIST from violations of the Act.

16 2. IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036 that ROBERT
17 MCINTOSH shall pay an administrative penalty of \$12,500. Said penalty shall be paid by cash or
18 certified funds payable to the Treasurer of the State of Arizona for deposit into its general fund.

19 The penalty shall be paid in monthly installments in the form of cashiers checks as follows:

20 (1) \$1,000 upon entry of this Order.

21 (2) \$1000 per month on or before the 15th day of each month beginning on
22 November 15, 1999 until paid in full.

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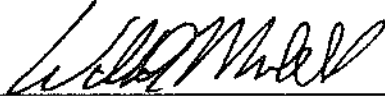
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3. IT IS FURTHER ORDERED, that ROBERT MCINTOSH shall have a ten day grace period in which to make any payment due under this Order. Failure to make a payment within the grace period shall be deemed a default, and all amounts shall become immediately due and payable together with interest at the statutory rate of 10% per annum from the date of this Order.

4. IT IS FURTHER ORDERED that this Order shall become effective immediately upon the date set forth below.

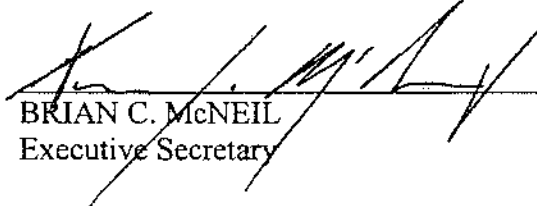
BY ORDER OF THE ARIZONA CORPORATION COMMISSION


CHAIRMAN


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 8th day of October, 1999.


BRIAN C. McNEIL
Executive Secretary

DISSENT
(MJN)

N:\Enforce\Cases\Premium Financial.ph\Pleading\ Premium Financial-Robert McIntosh Consent Order 2

1 CONSENT BY ROBERT WAYNE MCINTOSH TO THE ENTRY, BY THE CORPORATION
2 COMMISSION, OF A CEASE AND DESIST ORDER, AND ORDER ASSESSING AN
3 ADMINISTRATIVE PENALTY AND WAIVER OF HEARING

4
5 1. Respondent, Robert Wayne McIntosh ("ROBERT MCINTOSH") admits the
6 jurisdiction of the Arizona Corporation Commission ("Commission") over the subject matter of
7 this proceeding, and acknowledges that he has been fully advised of his right to a hearing to
8 present evidence and call witnesses. ROBERT MCINTOSH knowingly and voluntarily waives all
9 rights to a hearing before the Commission and all other procedures otherwise available under
10 Article 11 of the Securities Act of Arizona (the "Act") and Title 44 of, The Arizona Administrative
11 Code. ROBERT MCINTOSH acknowledges that the accompanying Order for Relief and Consent
12 to Same ("Order") constitutes a valid final order duly rendered by the Commission.

13 2. ROBERT MCINTOSH knowingly and voluntarily waives any right he may have
14 under Article 12 of the Act to judicial review by any court by way of suit, appeal or extraordinary
15 relief resulting from the entry of this Order.

16 3. ROBERT MCINTOSH acknowledges and agrees that this Order is entered into
17 freely and voluntarily and that no promise was made nor any coercion used to induce ROBERT
18 MCINTOSH to enter into it.

19 4. ROBERT MCINTOSH neither admits nor denies the Findings of Fact and
20 Conclusions of Law contained in the Order. ROBERT MCINTOSH further agrees that he shall
21 not challenge their validity in any present or future administrative proceedings before the
22 Commission or any other branch of state government concerning the denial or issuance of any
23 licenses or registration required by the State in order to engage in the practice of any business or
24 profession.

25 5. ROBERT MCINTOSH consents to the entry of this Order and agrees to be fully
26 bound by its terms and conditions. ROBERT MCINTOSH further acknowledges that, should he

1 fail to comply with any and all provisions of this Order, the Commission may enforce the Order in
2 Superior Court pursuant to A.R.S. § 44-2036.C or impose additional sanctions and costs and seek
3 other appropriate relief subject to ROBERT MCINTOSH's right to a hearing pursuant to the Act.

4 6. ROBERT MCINTOSH further understands that default will render him liable to the
5 Commission for its costs of collection and interest at the maximum legal rate.

6 7. ROBERT MCINTOSH acknowledges that this Order resolves only the alleged
7 administrative violations of the Act set forth in the Order and that nothing contained in the Order
8 purports to resolve any other issues which may exist between ROBERT MCINTOSH and the State
9 of Arizona. Nothing in the Order shall be construed to restrict or preclude any other agency or
10 officer of the State of Arizona or its subdivisions from initiating other civil or criminal proceedings
11 against ROBERT MCINTOSH, now or in the future, that may be related to the matter addressed
12 by the Order. Nothing in the Order shall be construed to restrict the State of Arizona's right in a
13 future proceeding to bring an action against ROBERT MCINTOSH from or related to facts not set
14 forth in the Order.

15 8. ROBERT MCINTOSH acknowledges that this Order represents the complete and
16 final resolution of, and discharge of any basis for any civil or administrative proceeding by the
17 Commission against ROBERT MCINTOSH for violations arising as a result of or in connection
18 with any actions or omissions by ROBERT MCINTOSH pursuant to A.R.S. § 44 1842; provided,
19 however, this release does not apply to facts not known by the Commission or staff or not
20 otherwise provided by ROBERT MCINTOSH as of the date of this Order; provided, further, that
21 this release does not apply to violations arising from the sales practices of ROBERT MCINTOSH
22 in relation to the offer or sales of securities to customers or accounts.

23 9. ROBERT MCINTOSH acknowledges that this Order, except as to the parties
24 hereto, does not limit or create any person's private remedies against ROBERT MCINTOSH or
25 others, or ROBERT MCINTOSH's or others' defenses thereto.

26 ...

1 10. ROBERT MCINTOSH acknowledges that, except as expressly provided in this
2 Order, nothing herein is intended to or shall be construed to have created, compromised, settled, or
3 adjudicated any claim, cause of action, or right of any person, other than as between the
4 Commission and ROBERT MCINTOSH in accordance with this Order.

5 11. ROBERT MCINTOSH states that as a part of the settlement reached herein, he will
6 continue to cooperate with the Securities Division (the "Division") in connection with this matter
7 including, but not limited to, providing a complete and accurate financial statement under penalty
8 of perjury, providing complete and accurate testimony at any hearing in this matter as may be
9 requested by the Division, and cooperating with the Division regarding the allegations in the
10 present matter and any other matters touching thereon.

11 
12 _____
13 ROBERT WAYNE MCINTOSH

14
15 SUBSCRIBED AND SWORN TO BEFORE me this 28 day of September
16 1999 by Robert Wayne McIntosh.

17 
18 _____
19 NOTARY PUBLIC

20
21 My Commission Expires:

